

RULE AMENDMENTS

On May 7, 2008, the Nebraska Supreme Court approved the following amendments to the Rules of Dist. Ct. of First Jud. Dist. 1-4:

Rule 1-4

DISSOLUTION ACTIONS

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~~I. All parties to a dissolution action involving minor children shall attend and successfully complete a court-approved parenting education course. Certificates evidencing completion of the course shall be filed in the court file. No case shall be delayed longer than six (6) months to secure compliance. This requirement may be waived on good cause shown.~~

I. Rule for Mediation in Domestic Relations Cases:

1. Parties to domestic-relations matters involving children are required to attend the District Court parent education program required by the court within sixty (60) days from receipt of service of process. This includes filing for dissolution of marriage and determination-of-paternity cases, which involve issues of custody and/or visitation. Effective on January 1, 2008, motions to compel existing orders which involve parenting issues, applications to modify decrees of dissolution which involve parenting issues, and applications to modify decrees of paternity which involve parenting issues shall be subject to the requirements of this rule, and both parents are required to attend the parent education program.

If the court deems it advisable, the parties may be required to complete a second level parenting class or the children of the parties may be referred to a class.

Prior to July 1, 2010, the parties shall submit a parenting plan to be approved by the court. The parenting plan shall be developed by the parties or their counsel, an approved mediation center, or a private mediator. When a parenting plan has not been developed and submitted to the court, the court shall either create the parenting plan in accordance with the Parenting Act (parenting plan samples available from the District Court

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Clerk) or refer the case to an approved mediator. At any time in the proceeding, the Court may refer a case to an approved mediator in order to attempt resolution of any relevant matter. Until July 1, 2010, either party may terminate mediation at any point in the process.

On or after July 1, 2010, all parties who have not submitted a parenting plan to the court within the time specified by the court shall be required to meet and participate in mediation services or another assigned mediator to complete a parenting plan or visitation schedule, including child custody, visitation, grandparent visitation, and any other issues relating to the children that may be susceptible to mediation. No trial date will be scheduled until attendance at the required parent education seminar has been completed and mediation to resolve custody and/or visitation issues has been attempted, provided, however, that failure or refusal to participate by a party shall not delay entry of a final judgment by more than six (6) months. It is further provided that, notwithstanding the language in this paragraph, domestic-violence issues may, upon consideration by the trial court, disqualify the parties from mediation.

On or after July 1, 2010, a party may not terminate mediation until after an individual initial screening session and one mediation or specialized alternative dispute resolution session are held.

Parties or counsel are required to notify the Mediation Services Office of any request for delay in assignment of a mediator if the parties and counsel are attempting to negotiate a parenting plan agreement, which agreement shall be required to comply with the parenting plan checklist. In the event there is failure to request a delay of mediator assignment, a mediator shall be assigned pursuant to this rule.

2. The Court shall prepare an order, for distribution by the District Court Clerk, advising the filing parties and their attorneys that attendance at the parenting seminar “What About The Children” or “Communication Skills for Parents in Conflict” is mandatory and must be completed within six months (6) from the filing of the complaint. The order shall also advise the parties and counsel: (1) the parenting plans and visitation schedules may be referred for mediation; (2) that no trial date

will be set until attendance at the required parent education seminar has been completed, and if required, mediation to resolve custody and/or visitation issues has been attempted; (3) that failure or refusal to participate by a party shall not delay entry of a final judgment by more than six (6) months; and (4) that domestic-violence issues may, upon consideration by the trial court, disqualify the parties from mediation. The District Court Clerk shall include this order with the filing and service packets distributed by the clerk.

3. The District Court Clerk shall maintain a list of mediators approved by the District Court judges and the Mediation Committee of the District Court. These mediators must meet State of Nebraska (or equivalent) standards for training in order to qualify. The following requirements apply to all participating mediators:

Court-approved mediators will determine their own fees and will provide a copy of their fee schedule to the Court. In order to be on the list of court-approved mediators, a mediator must agree to use a sliding-scale fee of \$25 to \$75 per person per hour, determined on the basis of what each party is able to pay. Court-approved mediators must also agree to take pro bono cases on an “as needed” basis. The Court will determine the need for such pro bono services, so that the burden of these cases is equitably distributed among the participating mediators.

4. Prior to participation in the program, qualified mediators will be required to attend an orientation session, which will be conducted by the Court, to review the mediation procedures, as well as the parenting plan checklist. Each participating mediator must be willing to agree to the court requirements for participation, and each mediator will be asked to sign a statement indicating acknowledgment and acceptance of the requirements.

5. When a judge refers a case for mediation, the judge will indicate the issues to be mediated, as well as any choice of a mediator if the judge has a preference. The judge may also indicate whether there is a particular mediator whom the judge does not wish to use. The attorneys for the parties may also mutually agree upon the choice of a mediator and may indicate whether they wish the parties to mediate any issues other than custody

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and parenting or visitation plans. If financial issues are to be mediated, the case may be assigned to an attorney mediator.

6. The attorneys will be requested to bring the parties to a Mediation Service Office forthwith or to immediately provide the Mediation Service Office with all necessary client information, so the staff can confer with the parties and their attorneys, and can discuss selection of a mediator. Unless a specific mediator has been requested, the next mediator appropriate to the parties and their needs will be assigned from the rotating list, and the Mediation Services Director will contact the mediator to confirm the mediator, who must advise the Mediation Services Director within ten (10) days of receipt of the paperwork of the date for the parties first appointment. The Mediation Services Office will attempt to screen each case for domestic violence, which would disqualify the parties from mediation, but the individual mediator may also refuse to mediate a case if the mediator determines that it would be inappropriate.

7.a. If the parties reach an agreement through mediation, the agreement shall be reduced to writing. Copies shall be provided by the mediator or Mediation Service Office to the parties and their attorneys, together with a notice informing the parties and their attorneys of their right to express their objections to the written agreement. The notice shall inform the parties and their attorneys that they have twenty-one (21) days from the date of the notice to notify the mediator or the Mediation Services Office of any written objections to the terms of the agreement. Such objections shall be specific. All matters not specifically objected to shall be deemed final. If no objections are received within twenty-one (21) days, then the agreement shall automatically be forwarded to the Mediation Services Office for final processing, pursuant to subsection (c) below.

If the parties and counsel negotiate a Parenting Plan agreement, which agreements shall comply with the Parenting Plan Checklist, the agreement shall be forwarded to the Mediation Services Office immediately after signing pursuant to subsection (c) below.

b. Upon the filing by either party or attorney of objections to the agreement, the mediator shall forthwith schedule a re-mediation session on the disputed issues identified in the

objection. The mediator may charge additional fees for the re-mediation session and related expenses. Following re-mediation efforts, the mediator shall forward to the Mediation Services Office the “re-mediated agreement” which shall recite those issues which remain contested, if any.

c. Agreements or amended mediation agreements shall be forwarded to the Mediation Services Office, where said agreements shall be reviewed. A copy of the agreement or amended mediation agreement shall be forwarded, along with the appropriate certificate of readiness form, to the judge to whom the case is assigned and to the court file. For cases involving parties with no counsel, the Mediation Services Office will require the parties to complete and file with the District Court Clerk a “Certificate of Readiness” indicating that the case is ready to be set for an uncontested final hearing. Such certificates will be in a form acceptable to the Court.

d. Prior to setting a case for an uncontested final hearing, the parties shall file a “Certificate of Readiness” with a copy of the parenting plan with the Court. For cases involving parties with no counsel, the Mediation Services Office will require the parties to complete and file the certificate with the District Court Clerk. Such certificate will be in a form acceptable to the Court.

e. The “Certificate of Readiness” for final hearing shall contain the following information:

- i. The full names of the parties;
- ii. The case number of the case;
- iii. The names, addresses, and bar number of counsel;
- iv. The date on which the complaint was filed and the date of service on defendant or the date of filing of the voluntary appearance by the defendant;
- v. That the parties have agreed to a parenting plan;
- vi. That the parties have attended the parent education seminar required by the court;
- vii. That the parties have completed child support calculations pursuant to the Nebraska Child Support Guidelines and have agreed to all financial matters contemplated by the guidelines;

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viii. That the parties have entered into a written and signed property settlement agreement; and

ix. That the parties have or have not attended mediation.

f. If the parties have not agreed to any of the following: parenting plan, child support calculations, or a property settlement agreement, they should not file a "Certificate of Readiness." They should contact the bailiff to schedule further hearings.

8. The Mediation Services Office will follow up on the deadlines set by the Court and whether any extensions of time have been granted.

9. Remediation Clause cases. When the parties are mediating amendments to existing decrees or modification proceedings, they may directly request mediation through their previous mediator or may request re-assignment to a different mediator through the Mediation Services Office.

10. The Mediation Committee will be a standing committee of the District Court and will be composed of three (3) district judges, the Mediation Services Director, at least one outside mediator/advisor, and such other persons as the Committee deems necessary. The Chair Judge of Mediation Services will chair this Committee and may be consulted individually, as may be needed by the conciliation and Mediation Services Director, for answers on day-to-day operations of the mediation program.

11. The Mediation Committee of the District Court may make such other operating rules as may be needed to facilitate the beginning and continuation of this mediation program.

12. The Mediation Services Office will be designated by the Mediation Committee of the District Court. A Mediation Services Director will be appointed by the Mediation Committee of the District Court.

13. Parties that have either terminated mediation unsuccessfully or have been determined to not qualify for mediation services shall have their case set for final trial before the court as soon as possible.